

1 BRIAN C. ANDERSON (State Bar No. 126539)
O'MELVENY & MYERS LLP
2 1625 Eye Street, NW
Washington, D.C. 20006
3 Telephone: (202) 383-5300
Facsimile: (202) 383-5414

4 TROY M. YOSHINO (State Bar No. 197850)
O'MELVENY & MYERS LLP
Embarcadero Center West
6 275 Battery Street, 26th Floor
San Francisco, CA 94111-3344
7 Telephone: (415) 984-8700
Facsimile: (415) 984-8701

8 Attorneys for Defendant
9 FORD MOTOR COMPANY

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 Oakland Division

14 SUSAN CHAMBERLAN, BRIAN
15 CHAMPINE, and HENRY FOK, on behalf
of themselves and all others similarly
16 situated, and on behalf of the general
public,

17 Plaintiffs,

18 v.

19 FORD MOTOR COMPANY, and DOES 1
20 through 100, inclusive,

21 Defendants.

Case No. C 03-02628 CW

**FORD MOTOR COMPANY'S REQUEST
FOR JUDICIAL NOTICE IN SUPPORT
OF REPLY TO PLAINTIFFS'
OPPOSITION TO FORD'S MOTION TO
DISMISS**

Date: August 1, 2003

Time: 10:00 a.m.

Courtroom: 2

Hon. Claudia Wilken

1 REQUEST FOR JUDICIAL NOTICE

2 Defendant Ford Motor Company (“Ford”) requests that the Court take judicial
3 notice of the legal effect of the document attached hereto as Exhibit A, which is a true and correct
4 copy of the Final Order and Judgment rendered in *Howard v. Ford Motor Co.*, Case No. 753785-
5 2 (Alameda Cty. Super. Ct. June 21, 2002) (“Final Judgment”). Judicial notice of this document
6 is proper pursuant to Federal Rule of Evidence 201.

7 Plaintiffs’ opposition to Ford’s Motion to Dismiss relies heavily on the October
8 11, 2000 Statement of Decision in *Howard* (“SOD”). *See, e.g.*, Pl. Opp. at 4, 5, 7, 8. But
9 plaintiffs fail to mention that the Final Judgment entered in *Howard* expressly *vacated* the SOD.
10 *See* Exhibit A (Final Judgment ¶ 11).

11 The Final Judgment has been entered in the files of the Superior Court of the State
12 of California for Alameda County. This Court may take judicial notice of the legal effect of
13 documents contained in a state court’s files. *See, e.g., United States ex rel. Robinson Rancheria*
14 *Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992) (taking judicial notice of state
15 court’s final judgment for purposes of applying *res judicata*); *Anderson v. Rinaldo*, 1997 WL
16 46728, at *10 n.1 (N.D. Cal. Feb. 2, 1994).

17 Because plaintiffs present the SOD in a misleading light and fail to inform the
18 Court that the interim SOD was vacated by the Final Judgment, Ford requests that the Court take
19 judicial notice of the legal effect of the Final Judgment.

20
21 Dated: July 18, 2003

Respectfully submitted,

22 O’MELVENY & MYERS LLP

23
24 By /s/ Troy M. Yoshino

25 Troy M. Yoshino
26 Attorneys for Defendant
FORD MOTOR COMPANY

27 SF1:517392.1
28